

**FLATHEAD COUNTY PLANNING BOARD
MINUTES OF THE MEETING
MAY 8, 2013**

**CALL TO
ORDER**

A meeting of the Flathead County Planning Board was called to order at approximately 6:00 p.m. Board members present were Marie Hickey-AuClaire, Greg Stevens, Noah Bodman, Gene Shellerud, Jim Heim, Jeff Larsen, Ron Schlegel and Bob Faulkner. BJ Grieve and Alex Hogle represented the Flathead County Planning & Zoning Office.

There were 24 people in the audience.

**APPROVAL OF
MINUTES**

Schlegel made a motion, seconded by Larsen to approve the April 10, 2013 meeting minutes and March 13, 2013 joint Planning Board and County Commissioners workshop.

On a roll call vote the motion passed unanimously.

**PUBLIC
COMMENT
(not related to
agenda items)**

None.

**ROSEWATER
SUBDIVISION
(FPP 12-02)**

A subsequent public hearing on a request by Score Management, LLC for Preliminary Plat approval of Rosewater Subdivision, a major subdivision consisting of 58 residential lots situated around a proposed 27 acre man-made waterskiing lake. The request was reviewed in a public hearing by the Planning Board on February 13, 2013 and considered by the Flathead County Board of Commissioners on March 25, 2013. Pursuant to Section 4.4.6 of the Flathead County Subdivision Regulations (FCSR) the Commissioners determined that new information presented and received following the Planning Boards' public hearing constitutes the need for a subsequent public hearing and directed the Planning Board to schedule a subsequent public hearing pursuant to Section 4.4.7 FCSR for consideration of only the new information that may have an impact on the findings and conclusions that the Commission will rely on to make its decision on the proposed subdivision. Content received and determined to be 'new information' pertains to the proposed lake liner system and its potential for leaking, long-term maintenance and repair, and potential noise impacts associated with the proposed waterskiing use. Only these topics will be considered by the Planning board at the subsequent public hearing. The

property is located at 1535 Rose Crossing.

Hickey-AuClaire and Grieve summarized the procedure which needed to be followed for the application.

STAFF REPORT Hogle reviewed Staff Report FPP 12-02 for the Board.

Grieve clarified the process the board needed to follow.

**BOARD
QUESTIONS** None.

**APPLICANT
PRESENTATION** Bill Tanner, applicant, had Eric Mulcahy from Sands Surveying, Tom Cowen from Carver Engineering, Roger Noble from Applied Water and Kirk Lilleskare from Northwest Linings who could answer specific questions the board had. He said he had tried the best he could to be available for discussions with the neighbors and had tried to accommodate their wishes as much as he could. He felt what he was trying to do was positive for the area and the county.

Tom Cowan with Carver Engineering explained the Operation and Maintenance manual they had submitted and the purpose for the manual. He also talked about why they chose the liner they did and the fact they had samples for the board to look at of the liner which included seams. He described the specifications for the liners and seams. He addressed the issue of possible leakage of the liner, how testing was done for leakage, that there would be no discharge from the lakes back to the river, the timeframe for a leak to be fixed and how the leak would be fixed. He talked about the issues of sound, the sound contour maps, pesticides, algaecides, Aqua-shade, monitoring wells, data loggers on the monitoring wells, how the aquifer was supplied, sound requirements for the boats and samples of the liner.

Tanner handed out to the board brochures with a sample of the liner.

Kirk Lilleskare with Northwest Linings gave the history of Northwest Linings which included how long they had been in business, what types of linings they handled, past projects, the reasons why the applicant chose a higher density of lining, how the lining was manufactured and checked for possible leaks, the quality control process of manufacturing the liner, the confidence in the leak-free installation of the liner and the

longevity of the liner. He also spoke about the warranty, the capability of the liner to be maintained, the cover soil depth of 18 inches, and the fact PVC had the best ability to stretch in all directions and was puncture resistance.

Larsen and Lilleskare discussed if an inspection service monitored their installation, the quality assurance of the process, what happened if there were leaks, repairing leaks, how a small leak could be repaired and the cost to repair a leak.

Schlegel and Lilleskare discussed who was responsible for the cost of repairing a leak in the liner if it occurred under warranty.

Heim and Lilleskare talked about whether or not the material was the same as what was used for fuel bladders.

Tanner hoped Lilleskare helped clarify the board's concern on the liner. He talked about the issue of sound and how the application had been compared to other sound producing events such as the local racetrack. He tried to give the board a perspective on how loud the boats on the lakes would be with an explanation of the sound maps they had submitted. He recounted a visit to a water skiing lake in Arizona and the replies of homeowners to his question of if they heard boat motors in their homes. He read parts of a letter which had been submitted to the board by the HOA chair of Crystal Point Estates, Arizona concerning the issue of sound and a brief history of the development. He also discussed why the CCR's were not available which was because the application had not been approved for the preliminary plat stage yet. He described the layout of landscaping which would help with the noise

Faulkner and Tanner discussed the dye which would be used in the lakes and what its purpose was.

Cowan and Faulkner discussed how the dye worked and its purpose.

Tanner reviewed projects where he had seen the dye used.

Bodman and Cowan discussed the draw down of the ponds which included evaporation and irrigating from the pond for up to 13 or 14 acres of land, how far the pond would be drawn down, what the rates of evaporation were, how much would be drawn out of the ponds and when, the potential of the irrigation

causing any false positives in any of the monitoring wells, and how long it would take to draw down the lake if there was a need to fix the liner.

**AGENCY
COMMENTS**

None.

**PUBLIC
COMMENT**

Hickey-AuClaire asked if the board wanted to recess to read public comment or wait until the end of the public comment period if there were additional public comment submitted.

The board decided to wait to recess until the end of the public comment period.

Hickey-AuClaire polled the audience to see how many people planned to speak during public comment. She asked the board if they wanted to limit the time for public comment.

Faulkner asked if everyone had the same thing to say, they would not repeat the whole comment, they could refer to the other person who previously spoke.

Larsen asked that the public speak only once and that it not be over 15 minutes.

Hickey-AuClaire said it was also important to direct the public comment to the board, not the audience.

Larsen asked Hickey-AuClaire to stop the speaker if they passed the 15 minute time limit.

Shellerud agreed with the 15 minute time limit.

Hickey-AuClaire said they needed to be fair and give everyone a 15 minute time limit.

Bodman asked that the public refrain from reading a letter which had been submitted to the board.

Hickey-AuClaire clarified the public comment time limit was 15 minutes.

Hickey-AuClaire and Grieve discussed the process which could be followed concerning public comment if a member of the public needed to use the audio-video system.

Hickey-AuClaire agreed to be the time keeper.

Eric Bergman, 180 Stillwood Drive, was against the application.

Ralph Hemp, Pine Grove Lane, was against the application.

Bill Ashe, 1870 Pine Grove Lane, was against the application.

Ron Tibert, 3795 Highway 2 W, was against the application.

Robin Street, 1414 Rose Crossing, was against the application.

Shawn Kemmit, was for the application.

Anita Bergman, 180 Stillwood Drive, was against the application.

Andy Palchek, 2299 Whitefish Stage, was against the application.

Greg Alsberg, 243 Mc Weiniger Drive, was for the application.

APPLICANT REBUTTAL

Tanner said there was not an intended, purposeful draw down of the lake and he went on to explain what he meant. He addressed the concerns raised about pollution and the fact there would be no exposure of the liner to the elements so it would not break down as quickly as something which would be exposed to the elements.

Roger Noble, Applied Water Consulting, said there would be a water management plan for the lakes and went on to explain what that plan would entail which included filling of the pond and using the pond to irrigate acreage. He also addressed the concern of possible pollution of the surrounding the water.

Heim and Noble discussed the way the water moved in the aquifer.

Faulkner and Noble discussed how mosquitos would be controlled.

Larsen and Noble clarified at length the water plan.

Lilleskare talked about clay liners and why they were being replaced, the thicknesses of and what was appropriate in this situation of liners. He also explained the possible reasons there was the leak on the lake in Avon, Colorado which was a change

in purpose and use after it was constructed.

Lilleskare and Schlegel discussed if a clay liner was necessary for the application.

Heim and Lilleskare discussed the thickness and life expectancy of land fill liners.

Tanner wanted to thank the board for their consideration and hoped they had answered their concerns.

**STAFF
REBUTTAL**

Grieve summarized at length the procedure again.

Bodman requested the findings of fact which pertained to the meeting again.

Hogle reviewed the findings of fact #15, #17, #18 and #27 in the staff report which pertained to the lake, the lake liner, potential leakage and repair. Finding #19 dealt with noise.

**BOARD
DISCUSSION**

Stevens requested to ask a question of Alsbery.

Hickey-AuClaire granted permission.

Stevens and Alsbery discussed if Alsbery's boat was approved by the USA Waterski Association and how long the waterski lake in St. Ignatius had been in place. They also discussed Steven's concern about how loud the boats were since he could not physically hear them for himself, how that situation could be remedied and if he could have the noise level tested by Bergman on Alsbery's boat on the lake in St. Ignatius.

Stevens wondered if there could be a condition that the decibel level could be limited by the Board of Adjustment for the Conditional Use Permit (CUP). He was concerned about the noise. He offered some possible remedies for the situation.

Tanner said that they had no problem with putting in the perceived levels by the US Waterski Association. It was difficult to do a handheld study for the noise level. He recounted his efforts to obtain an accurate study of the noise levels. He said it had to be done in a comparable environment. He was more than happy to have the US Waterski Association levels in a finding of fact in the report for a condition for noise. He was more than happy to take whoever wanted to hear the noise of the waterski

neighborhood in Arizona at his expense.

Stevens and Tanner discussed the pros and cons of having someone listen to the noise level at St. Ignatius.

Stevens asked to ask a question of Bergman.

Hickey-AuClaire granted permission.

Stevens and Bergman discussed a possible sound test.

Bergman said he would be happy to set up two combustion engines in the field where the proposed development would be and walk out the distances and measure the decibel levels with a simple handheld device and have the neighbors tell if they could hear the noise.

Larsen and Bergman discussed the specific standards used in quoting the noise levels and the pros and cons of each standard.

Hickey-AuClaire recognized Hemp who wanted to speak earlier and give him a chance to say what he wished to say.

Hemp said it was a difference in how meetings were run and Grieve's clarification on process earlier cleared up his question.

Hickey-AuClaire asked if the board wanted to take a break to read the public comments.

The board took at 15 minute break.

Hickey-AuClaire reviewed process again by reading from the subdivision regulations the process which needed to be followed.

The board discussed the proper way to proceed.

**MAIN MOTION
TO ADOPT
F.O.F.
(FPP 12-02)**

Stevens made a motion seconded by Larsen to adopt staff report FPP 12-02 as amended as findings-of-fact.

**BOARD
DISCUSSION**

The board and Grieve discussed how the board wanted to review the findings of fact.

Hickey-AuClaire read finding-of-fact #15.

The board agreed it was a valid finding.

Hickey-AuClaire read finding-of-fact #17.

The board agreed it was a valid finding.

Hickey-AuClaire read finding-of-fact #18.

The board agreed it was a valid finding.

Hickey-AuClaire read finding-of-fact #27.

The board agreed it was a valid finding.

Hickey-AuClaire read finding-of-fact #19.

The board agreed it was a valid finding.

Hickey-AuClaire asked if anyone had any comments on any other findings.

Heim brought up finding #2 which discussed using water from the river and the discussion of an easement for the water.

The board discussed finding #2 and the issue of an easement to transfer water. The board agreed it was a valid finding.

Hickey-AuClaire and Grieve reviewed process.

Shellerud discussed how to craft a finding to support a condition for a noise study and explained why.

The board discussed options of findings to support a noise study. They discussed standards of noise levels, options for a noise study, if the noise restriction was more appropriate to be taken care of by the Board of Adjustment and how to address that issue.

Grieve and the board debated at length how to address the noise issue in the findings of fact to support a condition.

**SECONDARY
MOTION TO
(Add F.O.F. #35)**

Stevens made a motion seconded by Larsen to add finding-of-fact #35 to read:

#35 The impact on public health and safety in regards to noise will be acceptable because the waterski lake will be subject to the Conditional Use Permit process per the Rosewater PUD and the CUP process considers “typical negative impacts” including noise and vibration and a Conditional Use Permit can be conditioned regarding noise and can be enforced by Flathead County.

**BOARD
DISCUSSION**

The board and Grieve discussed alternative wording to the finding concerning the wording of environment and why noise was included under the environment in the staff report.

**ASK THE
QUESTION**

Heim asked the question.

**ROLL CALL TO
(Add F.O.F #35)**

On a roll call vote the motion passed 7-1 with Bodman dissenting.

**BOARD
DISCUSSION**

None.

**ROLL CALL TO
ADOPT F.O.F.
(FPP 12-02)**

On a roll call vote the motion passed unanimously.

**BOARD
DISCUSSION**

Hickey-AuClaire and Grieve clarified process.

**MAIN MOTION
TO
RECOMMEND
APPROVAL OF
CONDITIONS
(FPP 12-02)**

Heim made a motion seconded by Stevens to adopt Staff Report FPP 12-02 and recommend approval to the Board of County Commissioners.

**BOARD
DISCUSSION**

Stevens said the three issues they were charged with examining were taken care of. The issue of noise would go before the Board of Adjustment and that satisfied him. He would support the project.

Larsen said the Rosewater Operation and Maintenance manual answered a lot of his questions. He thought the seed money to repair a possible leak should be higher. He went on to explain why he felt that total was low to take care of a problem. He said the manual took care of who would do the monitoring. He also wanted to talk about the contaminated water issue since there

were two sides of the spectrum presented. He felt the water would not be toxic. He felt they had addressed the noise issue. The BOA should take care of the issue. He would support the project.

The board discussed where the conditions and findings had been changed from the previous board meeting which was in the Planning Board Addendum on the informational CD which had been sent in their packets for the meeting.

Grieve reviewed the changes for the board.

The board discussed at length possible changes to condition #29 which involved the Operation and Maintenance Manual submitted to the board.

**SECONDARY
MOTION TO
(Amend
CONDITION #29)**

Larsen motioned and Shellerud seconded to amend condition #29 to read:

29. Prior to final plat approval of Phase 1, the applicant shall provide an ~~emergency contingency plan~~ *operations and maintenance manual* for the proposed artificial lake, ~~which has been reviewed and approved in writing by the Montana Department of Natural Resources and Conservation, Montana Department of Fish, Wildlife and Parks, and the U.S. Army Corps of Engineers.~~ The plan shall address long-term monitoring of the lake's liner system and emergency response in the event of a failure of the lake's liner system. At a minimum, the plan should include minimum qualifications of a person or firm contracted to perform the monitoring; method(s) of lake liner repair for various forms of potential damage; method of emptying the lake which will not degrade area soils, impact area roads or adjacent properties, or cause pollution of the Whitefish River, and; establish a mechanism for financial responsibility regarding the cost of long-term monitoring and necessary response/repair of the lake liner.

**BOARD
DISCUSSION**

None.

**ROLL CALL TO
(Amend
CONDITION #29)**

On a roll call vote the motion passed unanimously.

**BOARD
DISCUSSION**

Hickey-AuClaire felt Flathead County needed to address motor sports more and the county was not meeting the needs for people who enjoyed motor sports. Providing for motor sports would be a great asset to the community.

**ROLL CALL TO
RECOMMEND
APPROVAL OF
(FPP 12-02)**

On a roll call vote the motion passed unanimously.

**BOARD
DISCUSSION**

Hickey-AuClaire reviewed for the audience what process the application would go through from this point on and thanked the audience for attending.

OLD BUSINESS

None.

NEW BUSINESS

Grieve briefly reviewed what had happened in the meeting with the DNRC over floodplain issues earlier and how that affected projects for the board. He thanked the board for helping with the process of the application heard tonight.

ADJOURNMENT

The meeting was adjourned at approximately 10:10 pm. on a motion by Schlegel. The next meeting will be held at 6:00 p.m. on July 10, 2013.

Marie Hickey-AuClaire, Chairman

Donna Valade, Recording Secretary

APPROVED AS **SUBMITTED**/CORRECTED: 8 / 14 / 13